

1 RAYMOND M. BUDDIE (SBN 121353)
 2 RICK W. GRADY (SBN 235976)
 3 PECKAR & ABRAMSON, P.C.
 4 455 Market Street, 21st Floor
 5 San Francisco, CA 94105
 6 Telephone: (415) 837-1968
 7 Facsimile: (415) 837-1320
 8 Email: rbuddie@pecklaw.com
 9 rgrady@pecklaw.com

10 PATRICK S. HALLINAN (SBN 33838)
 11 KENNETH H. WINE (SBN 142385)
 12 HALLINAN & WINE
 13 Law Chambers Building
 14 345 Franklin Street
 15 San Francisco, CA 94102
 16 Telephone: (415) 621-2400
 17 Facsimile: (415) 575-9930

18 Attorneys for AMERICAN CASUALTY COMPANY OF READING, PA; and NATIONAL
 19 UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

22 UNITED STATES of AMERICA for the Use
 23 and Benefit of WEBCOR CONSTRUCTION,
 24 INC. dba WEBCOR BUILDERS, and
 25 WEBCOR CONSTRUCTION, INC. dba
 26 WEBCOR BUILDERS,

27 Plaintiffs,
 28 vs.

29 DICK/MORGANTI, a joint venture; DICK
 30 CORPORATION; THE MORGANTI
 31 GROUP; AMERICAN CASUALTY
 32 COMPANY OF READING, PA;
 33 NATIONAL UNION FIRE INSURANCE
 34 COMPANY OF PITTSBURGH, PA, and
 35 DOES 1 through 10, inclusive,

36 Defendants.

37 Case No.: 3:07-CV-02564-CRB

38 **STATUS CONFERENCE STATEMENT
 39 BY DICK/MORGANTI; DICK
 40 CORPORATION; THE MORGANTI
 41 GROUP, INC.; AMERICAN CASUALTY
 42 COMPANY OF READING, PA;
 43 CONTINENTAL CASUALTY
 44 COMPANY; AND NATIONAL UNION
 45 FIRE INSURANCE COMPANY OF
 46 PITTSBURGH, PA**

47 Hearing Date: February 22, 2007

48 Hearing Time: 10:00 a.m.

49 Location: Courtroom 8, 19th Floor

50 Judge: Hon. Charles R. Breyer

51 AND ALL RELATED COUNTER-CLAIMS
 52 AND THIRD PARTY COMPLAINTS.

53 STATUS CONFERENCE STATEMENT BY DICK/MORGANTI; DICK
 54 CORPORATION; THE MORGANTI GROUP, INC.; AMERICAN CASUALTY
 55 COMPANY OF READING, PA; CONTINENTAL CASUALTY COMPANY; AND
 56 NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA

57 Case No.: 3:07-CV-02564-CRB

1 Defendants Dick/Morganti; Dick Corporation; Morganti Group, Inc.; and Continental
 2 Casualty Company; and Defendants and Third Party Complainants American Casualty
 3 Company of Reading, PA and National Union Fire Insurance Company of Pittsburgh, PA
 4 (collectively “D/M”) hereby submit the following Status Brief:

5 **1. Performance Contracting, Inc. (“PCI”):**

6 PCI’s February 20, 2008 Status Conference Statement and accompanying declaration
 7 essentially deal only with PCI’s alleged “unpaid contract balance of approximately
 8 \$3,005,018.00.” D/M’s position is that, because PCI only focuses on its alleged \$3 million
 9 balance, PCI implicitly concedes that most, if not all, of the remaining \$4.5 million of PCI’s
 10 \$7.5 million total claim involves owner-related items, i.e., claims related to D/M’s Global
 11 Claim.

12 D/M disputes the contract balance claim because it has valid back charges. PCI claims
 13 that numerous meetings have been held during which “PCI provided specific and voluminous
 14 documentation as to why D/M’s back charges had no merit... [and that] D/M voiced no
 15 disagreement with PCI’s presentation of facts.” (See PCI’s Status Conference Statement, page
 16 3, lines 2-4.) These statements are, at best, inaccurate, because *D/M was not allowed to review*
 17 *the supposed supporting documents.* (See February 21, 2008 Declaration of D/M’s Project
 18 Manager, Vincent C. Petito, paragraphs 5 and 6, filed herewith.)

19 Indeed, PCI’s refusal to let D/M review this material and the relatively slow progress in
 20 negotiations and cooperation since the December 19, 2007 Status Conference have prevented a
 21 concrete agreement between D/M and PCI.

22 On December 21, 2007, D/M sent a letter to PCI to schedule a meeting to discuss
 23 resolution of PCI’s claims and cooperation between D/M and PCI regarding PCI’s portions of
 24 D/M’s Global Claim. On December 27, 2007, PCI sent D/M a letter suggesting a meeting in
 25 mid-January 2008, and on January 4, 2008, counsel for PCI contacted counsel for D/M and
 26 suggested January 23, 2008 as a meeting date. Ultimately, a meeting was held on January 24,
 27 2008 between PCI and its counsel and consultants and D/M and its counsel and consultants.

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1 On February 21, 2008, a meeting was held between D/M and PCI officials to further
 2 discuss potential resolution of PCI's alleged subcontract balance, as well as PCI's pass-through
 3 claims. D/M's position is that the parties should be allowed more time to finalize an agreement.

4 **2. Webcor Construction, Inc. ("Webcor"):**

5 The Stay Order was dissolved with respect to three (3) of Webcor's six (6) unresolved
 6 change order requests ("COR's"), i.e., Webcor's COR's 63, 64, and 65. D/M filed a Motion to
 7 Dismiss and Motion for a More Definite Statement in response to the non-stayed COR's, and
 8 D/M and Webcor stipulated to continue the hearing on the Motions from February 22, 2008 to
 9 March 21, 2008. D/M proposed to Webcor that it draft an amended pleading which would
 10 render D/M's Motions moot and allow D/M to properly respond and/or counterclaim with
 11 respect to Webcor's non-stayed allegations. As of this filing, D/M has not received an amended
 12 pleading from Webcor.

13 **3. Other Parties To This Action:**

14 D/M is currently engaged in claim prosecution to the GSA, claim revisions/preparation,
 15 and/or final negotiations with respect Third Party Defendants Boyett Construction, Inc.;
 16 Marellich Mechanical Co., Inc.; Permasteelisa Group USA Holdings Corp. and its related
 17 entities; and Rosendin Electric, Inc.

18
 19 Dated: February 21, 2008

PECKAR & ABRAMSON, P.C.

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 21 By: */s/ Rick W. Grady*
 22 Raymond M. Buddie (SBN 121353)
 23 Rick W. Grady (SBN 235976)
 24 Attorneys for DICK/MORGANTI; DICK
 25 CORPORATION; THE MORGANTI
 26 GROUP, INC.; AMERICAN CASUALTY
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